

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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## CHAPTER 56B

## Trade and Other Names

**7346. Commercial business—Trade and individual names, etc.**

Generally there can be no exclusive appropriation of a family surname so as to constitute it a valid technical trade-mark, and a person is entitled to honestly use his own name in connection with any business open to him but not in such a way as to deceive public and pass off his goods as those of owner of established trade name. *Brown Sheet Iron & Steel Co. v. B.*, 198M276, 269NW633. See *Dun*, Dig. 9670.

Although courts will protect use of a name that is so identified with a product that it has become well known and respected in trade, protection need not be any greater than is reasonably necessary to accomplish desired purpose. *Id.*

Effect of non-compliance with statute regulating use of trade names. 15MinnLawRev824.

**7352-1. Lodge and society emblems may be registered.**—That any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization or association, degree, branch, subordinate lodge, or auxiliary thereof, whether incorporated or unincorporated, the principles and activities of which are not repugnant to the Constitution and Laws of the United States or this State, may register, in the office of the Secretary of State, a facsimile, duplicate, or description of its name, badge, motto, button, decoration, charm, emblem, rosette or other insignia, and may, by re-registration alter or cancel the same. (Act Apr. 17, 1933, c. 295, §1.)

**7352-2. Application for registration.**—Application for such registration, alteration or cancellation, shall be made by the chief officer or officers of said association, lodge, order, fraternal society, beneficial association or fraternal and beneficial society or association, historical, military or veterans' organization, labor union, foundation, federation or any other society, organization or association, degree, branch, subordinate lodge or auxiliary thereof, upon blanks to be provided by the Secretary of State; and such registration shall be for the use, benefit, and on behalf of all associations, degrees, branches, subordinate lodges, and auxiliaries of said association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, and the individual members and those hereafter to become members thereof, throughout this state. (Act Apr. 17, 1933, c. 295, §2.)

**7352-3. Secretary of State to keep record and index.**—The Secretary of State shall keep a properly indexed record of the registration provided for by this Act, which record shall also show any altered or cancelled registration. (Act Apr. 17, 1933, c. 295, §3.)

**7352-4. Not to register duplicates.**—No registration shall be granted or alteration permitted to any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization or association, degree, branch, subordinate lodge or auxiliary thereof, having a name, badge, motto, button, decoration, charm, emblem, rosette, or other insignia, similar to, imitating, or so nearly resembling as to be calculated to deceive, any other name, badge, button, decoration, charm, emblem, rosette, or other insignia whatsoever, already registered pursuant to the provisions of this Act. (Act Apr. 17, 1933, c. 295, §4.)

**7352-5. Secretary of State to issue certificates.**—Upon granting registration as aforesaid, the Secretary of State shall issue his certificate to the petitioners, setting forth the fact of such registration. (Act Apr. 17, 1933, c. 295, §5.)

**7352-6. Penalty for unlawful use of registered insignia.**—Any person who shall wilfully wear, exhibit, display, print, or use, for any purpose, the badge, motto, button, decoration, charm, emblem, rosette, or other insignia of any such association or organization herein mentioned, duly registered hereunder, unless he or she shall be entitled to use and wear the same under the constitution and by-laws, rules and regulations of such association and organization, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$100.00, and in default of payment, committed to jail for a period of not to exceed 60 days. (Act Apr. 17, 1933, c. 295, §6.)

**7352-7. Fees.**—The fees of the Secretary of State for registration, alteration, cancellation, searches made by him, and certificates issued by him, pursuant to this Act, shall be the same as provided by law for similar services. The fees collected under this Act shall be paid by the Secretary of State into the state treasury. (Act Apr. 17, 1933 c. 295, §7.)

**7352-8. Inconsistent acts repealed.**—All Acts or parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 17, 1933, c. 295, §8.)

## CHAPTER 56C

## Newspapers

**7352-11. Newspapers to register statement of ownership—exceptions.**—Every newspaper printed or published within the State of Minnesota excepting legally qualified newspapers shall register in the office of the register of deeds, a statement of the owners, printers and publishers of said paper, and the residence of each, and if the same shall be published by a corporation, the names and residences of the president, secretary and editors thereof. (Act Apr. 21, 1931, c. 293, §1.)

\*School publications must file their statement of ownership, etc. *Op. Atty. Gen.*, Feb. 8, 1934.

**7352-12. Register of deeds to provide book.**—The register shall provide a suitable book in which to regis-

ter the names as herein provided and shall charge therefor a fee of fifty cents. (Act Apr. 21, 1931, c. 293, §2.)

**7352-13. Shall not publish paper unless registered.**—No newspaper excepting a legally qualified newspaper shall be printed or published within the State of Minnesota without the names of the owners, publishers and editors thereof stated and set forth in said newspaper. (Act Apr. 21, 1931, c. 293, §3.)

Fact that owner of newspaper merely described himself as "publisher and editor" was a technical rather than material violation of statute. *Fryberger v. A.*, 194M443, 260NW625.

**7352-14. Violation a gross misdemeanor.**—In the event of any newspaper failing to file and register as provided for in Section 1 of this act, the party printing or publishing the same shall be guilty of a gross misdemeanor. (Act Apr. 21, 1931, c. 293, §4.)

**7352-15. Court to determine ownership.**—In the event of the publication of any newspaper within the State of Minnesota without the names of the owners and publishers thereof fully set forth in said newspaper, circular or publication, the court or the jury may determine such ownership and publisher on evidence of the general or local reputation of that fact and opinion evidence may be offered and considered by the court or jury in any case arising in connection

with the ownership, printing or publishing of any such publication or of any article published therein either in a criminal action for libel by reason of such publication or in any civil action based thereon. (Act Apr. 21, 1931, c. 293, §5.)

**7352-16. Definition.**—By the term "newspaper" as expressed herein, shall be included any newspaper, circular or any other publication whether issued regularly or intermittently by the same parties or by parties, one of whom has been associated with one or more publication of such newspaper or circular, whether the name of the publication be the same or different. (Act Apr. 21, 1931, c. 293, §6.)

## CHAPTER 57

### Limited Partnership

#### LIMITED PARTNERSHIP ACT

##### 7353 to 7383.

The Uniform Limited Partnership Act has been adopted by: Alaska, California, Colorado, Idaho, Illinois, Iowa,

Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Virginia, Wisconsin.

## CHAPTER 57A

### Partnership

The Uniform Partnership Act has been adopted by: Alaska, California, Colorado, Idaho, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wisconsin, Wyoming.

#### PART I

##### PRELIMINARY PROVISIONS

###### 7385. Definition of terms.

The corporate partner. 14MinnLawRev769.

###### 7387. Rules of construction.

Windom Nat. Bank v. K., 191M447, 254NW602; note under §7408.

#### PART II.

##### NATURE OF A PARTNERSHIP

###### 7389. Partnership defined.

"Investment contract" embracing profit sharing scheme, offered by broker to customers, held not to create partnership. Securities & Exchange Com. v. W., (USDC-Minn), 12FSupp245.

Joint ownership of land does not create a partnership or make the owners joint adventurers. Pratt v. M., 182 M250, 234NW464. See Dun. Dig. 4948b, 7346, 7350.

The evidence is not conclusive that there was a partnership between one of the defendants and a corporation now defunct. Mahlberg v. J., 182M578, 235NW280. See Dun. Dig. 2092, 7346.

A partnership may be legal result of an agreement notwithstanding an expressed intention not to create such a relationship. Randall Co. v. B., 189M175, 248NW752. See Dun. Dig. 7346.

Contract between manager and prize fighter held one of joint enterprise or adventure and not one of employment. Safro v. L., 191M532, 255NW94. See Dun. Dig. 4948b, 5801.

As between owner of stock pledged by borrower without knowledge of owner and person signing as surety before delivery of note, such surety held not partner of borrower as affecting primary liability on note, and right to exoneration of stock pledged. Stewart v. B., 195 M543, 263NW618. See Dun. Dig. 7346.

Pledgor of stock and endorsers held co-sureties and each entitled to contribution. Id. See Dun. Dig. 1925.

Written contract with respect to mortgages transferred by bank to plaintiff's decedent held to have created a joint adventure of such nature that plaintiff is entitled to contribution for losses from certain directors and stockholders of bank. Minars v. B., 197M595, 268NW197. See Dun. Dig. 4948b.

Evidence held to sustain finding that renting of two adjoining farms to one tenant was not a joint adventure, as affecting division of expenses of maintenance. Patterson v. R., 199M157, 271NW336. See Dun. Dig. 4948b.

Relationship between two brokerage firms based upon agreement for use by one or the other as its exclusive correspondent for execution of orders of itself and its customers in consideration for which it was to be furnished free wire service held not one of partnership. Korns v. T., (DC-Minn), 22FSupp442, 36AmB(NS)854, app. dism'd, (CCA8), 102F(2d)993, —AmB(NS)—.

When persons associate together and do business as a corporation, and latter is defectively organized, their rights, duties, and liabilities, as between themselves, should be determined and governed by express or implied terms, conditions, and limitations contemplated by their agreement, and they are not partners unless they have agreed to be such. Thompson v. M., 202M318, 278NW153. See Dun. Dig. 2092.

A partnership has as its basis a contract, and respective interests of each member can only be altered by a modification of it, and a single member by himself alone cannot accomplish such an alteration. Keough v. S., 285NW809. See Dun. Dig. 7350.

The law of joint adventures. 15MinnLawRev644.

###### 7390. Rules for determining the existence of a partnership.

One selling diamonds, held not shown to have been the partner of the owner. 180M447, 231NW408.

In action to recover on a printing bill, evidence held to justify finding that defendants were partners. Randall Co. v. B., 189M175, 248NW752. See Dun. Dig. 7349a(37).

In workmen's compensation case evidence held to show that two persons operating an apartment building and dividing the income were partners rather than tenants in common. Keegan v. K., 194M261, 260NW318. See Dun. Dig. 7349a.

Co-ownership of real estate does not create a partnership. Campbell v. S., 194M502, 261NW1. See Dun. Dig. 7346(8).

Bank suing co-owners of a farm as partners on a note purporting to be signed by them as a partnership was not thereafter stopped in a suit by a third party to claim that there was no partnership and that certain co-owner was alone liable on theory of having signed under an assumed name, first action being settled and there being no findings or judgment. Id. See Dun. Dig. 7348.

Profit sharing as a test of existence of partnership. 16MinnLawRev115.

###### 7391. Partnership property.

Windom Nat. Bank v. K., 191M447, 254NW602; note under §7408.

#### PART III.

##### RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

###### 7392. Partner agent of partnership.

Where a partnership is a party to a contract, the acts of one member thereof bind the partnership. 174M297, 219NW180.